

LEGISLATIVE BULLETIN

The Final Weeks

Bulletin #20, 2016 Session
May 13, 2016

The House completed action this week on all Senate bills in its possession, and the Senate did likewise with House bills. All bills that were amended in the second chamber have been sent back to the originating chamber for concurrence or non-concurrence, and the process of establishing committees of conference has begun. That process will be finished by next Thursday, May 19, and the committees of conference will have only until the following Thursday, May 26, to reach agreement and file their reports. That is a very limited amount of time to accomplish a whole lot.

There will be plenty of activity in the next few weeks, and we will do our best to keep you updated. As always, if you have any questions, please do not hesitate to contact NHMA's Government Affairs staff.

Senate Approves Electronic Voter Check-In

The Senate voted 15-9 on Thursday to authorize the pilot project for electronic voter check-in that we have discussed in recent issues of the *Bulletin*, especially in *Bulletins #17 and #18*. There was, and is, strong opposition to this bill, and the Senate vote was the result of a very determined effort by many legislators from both parties, many local officials, and a number of interested groups.

The battle in the House will be even more difficult. The procedural status is this: the pilot project is now included in [HB 1534](#), and it goes back to the House, which can concur and let the bill pass as is, "non-concur" and let the bill die, or non-concur and request a committee of conference. The House Election Law Committee will recommend one of those three options, and the full House will vote on that recommendation **next Wednesday, May 18**.

We are asking representatives to **concur** with the Senate's version of **HB 1534**. To that end, **please contact members of the [Election Law Committee](#) and your own representatives as soon as possible and urge them to concur on HB 1534**. We know, because senators have told us,

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that phone calls from city and town clerks and other local officials are what made the difference there.

We also understand that a procedural objection may be raised in the House, because the language added by the Senate is similar to a bill that the House killed last year. House rules prohibit introduction of any bill in the second-year session that is “substantially similar” to a bill that was killed in the first-year session. We are unsure how this will play out, but if the Speaker rules the language impermissible, there may be a motion to overrule that determination, or there may be a motion to suspend the rules. ***Please urge your representatives to support any action that will lead to a vote to concur on HB 1534.***

We have previously discussed the benefits of the electronic check-in system: it will dramatically reduce waiting lines, dramatically reduce the possibility of voter fraud, significantly shorten the process for same-day registration, and eliminate weeks (or, in some cases, months) of post-election data entry. Running a pilot project in three municipalities at the state primary and general elections this fall will enable election officials to see how the system works and identify any potential problems, in advance of legislation next year to allow usage statewide. That is why the project has support from the City and Town Clerks Association, the League of Women Voters, and America Votes, as well as from NHMA—and why the chairs of ***both the Republican and Democratic state parties*** have sent letters strongly supporting it.

At a hastily arranged forum in Concord earlier this week, Alexander Schwarzmann, a computer science professor from the University of Connecticut, discussed his concerns with electronic check-in systems. Essentially, he stated that there is no such system that cannot be hacked, and therefore they are not reliable, and will not be anytime in the foreseeable future.

Fine. Thirty-nine states currently are using these systems with no serious problems, regardless of one professor’s concerns. There is probably no computer system in the world that cannot be hacked—in many cases with much more serious consequences than the hacking of a voter check-in system—yet they are used for everything from watches to nuclear weaponry.

One of the theoretical risks Professor Schwarzmann cited is that a person could attach a phony magnetic strip to his driver’s license that would enable him to check in as any random voter on the checklist who has not yet voted. After voting, he could get back in the line and check in as a different random voter, and keep doing this all day.

THE EDGE

Committee of conference time!

As mentioned elsewhere in this issue, committees of conference will get down to business next week. Here is a primer on the process.

A committee of conference typically consists of three senators and four representatives, usually drawn from the committees that heard the bill in each chamber. Committee of conference meetings are open to the public, but the House conferees and the Senate conferees frequently meet separately and in private to discuss their positions (yet another practice that Right-to-Know Law advocates would never tolerate at the local level).

There are a number of unwritten (at least to our knowledge) rules. One is that a legislator who voted against the bill will not be placed on the committee; but this can’t always be strictly enforced. For example, since there usually is at least a perfunctory effort to show bipartisanship by appointing one member of the minority party from each house, a bill that passed on a straight party-line vote will necessarily have at least one member on the committee of conference who did not support the bill.

The charge of each conferee is to defend his or her chamber’s position (which is why it makes sense not to appoint someone who voted against the bill). Of course, if every conferee pursued that obligation unwaveringly, a committee would never reach a compromise.

(continued on next page)

That says something about the credibility of his concerns. Someone in the audience pointed out the rather obvious facts that (1) it is likely that anyone who votes and then gets back in the check-in line would be noticed; and (2) the driver's license contains not only a magnetic strip but a name, and the ballot clerk will notice that the name on the license does not match the name that shows up on the computer. One might also wonder whether someone who is smart enough and resourceful enough to hack the system in this manner would be foolish enough to take the risk.

Opponents of **HB 1534** have stated that they do not oppose the idea, but that there is not enough time to test the system before the September primary, and the pilot project should wait instead until the 2017 municipal elections, some six months later. However, if Professor Schwarzmans' warnings are taken seriously, a six-month delay accomplishes nothing, because he would say we are years away from a reliable system; and by the time New Hampshire implements it, we will be the 50th state to do so. If this is going to be done, there is no reason to wait.

Again, the House is going to act next Wednesday, May 18. Please make your calls and send your e-mails as soon as possible.

State Aid Grants and Police Training

Originally **HB 1428** contained funding for a number of wastewater projects currently on the Department of Environmental Services' delayed and deferred list. As explained in last week's Bulletin, both **HB 1428** and **SB 527** were amended to address the funding shortfall at the police academy, with **HB 1428** containing the Senate's preferred method—penalty assessment fees going to the general fund and a general fund appropriation of \$3.5 million—and **SB 527** containing the House's preferred method of funding just the current shortfall of \$500,000 and dealing with a permanent funding solution in the next biennial budget process. Besides adding the police academy issue to **HB 1428**, on Thursday the Senate also added two other amendments on unrelated issues.

On the House side, **SB 527** was amended to include a provision allowing employers to pay wages weekly or bi-weekly—a provision that had passed the House earlier in the session but was killed in the Senate by a vote of 12-12. Clearly both bills now contain a number of provisions desired by one chamber, but not necessarily by the other. This should all be sorted out during committees of conference over the next two weeks.

THE EDGE (Continued)

Committee members are not expected to fight to the death, but they are expected to take their obligation seriously. A member who strays too far from his or her chamber's position may be quickly removed from the committee.

If the two versions of the bill differ only slightly, an agreement may be reached quickly. If there are significant differences, often it becomes a matter of who has more leverage. The chamber that wants the bill more may have to give up more to get it, because the other side can just walk away and let the bill die. One *written* rule is that the committee may not add any subject matter that was not included in either the House or Senate version of the bill.

Unless all members agree and sign the committee of conference report, the bill dies. This sounds like an easy way to kill a bill in committee of conference—just find one member who will hold out against the rest (perhaps that one member from the minority party).

That doesn't work. Again, renegade members are quickly removed and replaced. We have seen situations where six of the committee members agreed on a compromise, and when the seventh member balked, a replacement was named for the sole purpose of signing the committee report.

Serving on a committee of conference carries significant responsibility—but not much opportunity for rebellion.



Committee of Conference on RGGI Funds?

As we reported last week, the Senate amended **HB 1660**, a bill dealing with eminent domain takings by gas pipeline companies, by adding the language of **SB 492**, which would distribute an additional \$3 million a year to municipalities for energy efficiency projects out of proceeds from the sale of carbon allowances under the regional greenhouse gas initiative (RGGI). **SB 492** had previously passed the Senate but had been tabled in the House, leading the Senate to attach its language to **HB 1660**. We urged that the House concur with the Senate amendment, rather than request a committee of conference.

The question did not come up for a vote in the House this week, so presumably it will next week. We are told there will be a committee of conference, but that news seems premature, as this is a decision to be made by the House, and it has not been made yet. We continue to urge representatives to *concur with the Senate amendment to HB 1660* and avoid a committee of conference.

Additional Bridge Aid Passes Senate

On Thursday the Senate passed [HB 2016](#), which is primarily the 10-year transportation improvement plan. Included in that bill is an additional \$2.5 million for municipal bridge aid, coming from unexpended appropriations at the Department of Transportation due to the light winter. Since the Senate made a number of changes to the bill as passed by the House (mostly moving projects up sooner in the 10-year schedule), the Senate version will now go back to the House for either concurrence with those changes or a request for a committee of conference.

Long-Term Record Retention

The Senate this week passed [HB 1395](#), an **NHMA policy bill** that will help municipalities manage their records more efficiently and inexpensively. Current law states that municipal records that are required to be retained for more than ten years must be kept either in paper form or on microfilm. **HB 1395** allows them to be retained instead in portable document format archive (PDF/A), so long as they are stored on a medium from which they are readily retrievable.

The Senate's language is slightly different from that adopted by the House, so the bill needs to go back to the House. We believe the Senate's version is a slight improvement that does not change the policy, so we encourage the House to concur.

Senate Kills Semi-Trailer Registration Bill

On Thursday by a vote of 17-7, the Senate killed an amendment to [HB 1271](#) that would have created a registration program for out-of-state semi-trailers. While the Division of Motor Vehicles was adamantly opposed to this program, senators also heard from many of their municipal clerks and tax collectors and took those concerns to heart. Thank you to those municipal officials who contacted their senators and voiced their strong opposition to this amendment.

No Reporting Requirement for Union Dues

The Senate on Thursday voted 17-7 to kill [HB 1322](#), which would have required “each public employer of each bargaining unit” to report semiannually “the total number of public employees within the bargaining unit paying union dues, the total number of public employees within the bargaining unit paying agency fees, and the ratio, expressed as a percentage, of the number of those public employees paying union dues to the total number of public employees in the bargaining unit.” NHMA had opposed the bill because municipalities do not necessarily have that information unless all union dues and agency fees are paid through payroll deduction, which is frequently not the case.

There was an effort to amend the bill so it would apply only to the state, which would have addressed NHMA’s concern, but that amendment was never introduced because the Senate voted first to kill the bill.

Lower Assumed Rate of Return Affects Future Employer Retirement Rates

On Tuesday the New Hampshire Retirement System (NHRS) Board of Trustees voted to adopt revised actuarial assumptions based on the recent five-year experience study conducted by its consulting actuary. In a related vote, the Board approved a reduction of the retirement system's investment assumption, lowering the assumed rate of investment return from 7.75 percent to 7.25 percent. These new assumptions, which according to the system better reflect actual and anticipated experience, will be used in the valuation to set employer contribution rates for the period from July 1, 2017, through June 30, 2019.

Of all the assumptions used to estimate the cost of the pension plan, such as demographic and mortality assumptions, none has a larger effect on employer contributions than the assumed rate of return. This is because investment earnings account for a majority of the system's revenues. When the system assumes it will receive less money from investment returns, the result is an increase in employer contribution rates in order to ensure that the system remains actuarially sound in accordance with Part I, Article 36-a of the New Hampshire Constitution. A press release providing further explanation of the NHRS Board deliberations concerning the assumed rate of return is available [here](#).

While the NHRS Board will not officially vote until the fall on the rates to be effective July 1, 2017, preliminary projections from the actuary indicate the following increases from current rates. These rates are shown per \$100 of pensionable compensation:

	<u>Current Rates</u>	<u>Projected Rates</u>	<u>% Increase</u>
Employees – Political Subdivisions	11.17%	11.38%	1.88%
Teachers	15.67%	17.36%	10.78%
Police	26.38%	29.43%	11.56%
Fire	29.16%	31.89%	9.36%

NHMA is Moving to the Cloud

NHMA has a number of technology infrastructure changes coming up in the next few weeks. We are moving off our current server and going to the cloud, so there are several modifications we will need to make to our daily IT routines—and you know change is not always easy! If you are having difficulty reaching us, or if we have not responded to an email, it may be because of this transition. Thank you for your understanding and patience.

To view the weekly Legislative Bulletin from the NH School Boards Association, please click [here](#).

HOUSE FLOOR ACTION

Wednesday, May 11, 2016

CACR 27 (New Title), relating to the operating budget. Providing that the state shall not spend more from any fund than such fund receives in revenue, nor use the proceeds of any bond to fund its annual operating expenditures. **Tabled.**

SB 4 (New Title), relative to eligibility to vote and relative to availability of voter information. **Passed with Amendment.**

SB 306, enabling the sampling of beer or wine at farmers' markets. **Passed.**

SB 319-FN, relative to survivor benefits for families of police officers and firefighters killed in the line of duty. **Passed with Amendment.**

SB 333, relative to net energy metering. **Inexpedient to Legislate.**

SB 347, enabling the state and municipalities to adopt laws and ordinances regulating attire on state and municipal property. **Inexpedient to Legislate.**

SB 348 (New Title), allowing municipalities to adopt a property tax credit for certain disabled veterans. **Inexpedient to Legislate.**

SB 364, establishing a committee to study the feasibility of incorporating complete streets into the 10-year transportation improvement plan. **Passed with Amendment.**

SB 381, relative to the combustion of the wood component of construction and demolition debris. **Passed.**

SB 411, relative to the merger of lots that are mortgaged. **Passed with Amendment.**

SB 416, relative to flexible working arrangements in employment. **Passed.**

SB 418 (Second New Title), adding National Guard members to the absentee voting laws and relative to enrollment of laws. **Passed with Amendment.**

SB 421, relative to liability of governmental units. **Referred to Interim Study.**

SB 452-FN, requiring certain state agencies to conduct an audit of laws governing coastal regions to enable authorities to take appropriate actions. **Passed.**

SB 471-FN, relative to parking for persons with disabilities. **Passed with Amendment.**

SB 482-FN-LOCAL (New Title), establishing a committee to study the effect of short-term rentals on municipalities. **Passed with Amendment.**

SB 485-FN-A, establishing a state grant program to assist state and local law enforcement agencies in addressing the opioid crisis and making an appropriation therefor. **Passed with Amendment.**

SB 487, relative to missing vulnerable adults. **Passed with Amendment.**

SB 494-FN-A (New Title), limiting an exemption from the road toll. **Passed.**

SB 527-FN-A, making an appropriation to the police standards and training council, repealing the police standards and training council training fund, making an appropriation to the department of safety for the purchase of state police cruisers. **Passed with Amendment.**

SB 538, relative to children taken into custody under the child protection act and relative to the commission to review child abuse fatalities. **Passed.**

SB 550-FN, relative to the maximum gross weight for dump trailers. **Passed.**

SENATE FLOOR ACTION

Thursday, May 12, 2016

HB 512, prohibiting confiscation of firearms, ammunition, or firearms accessories during a state of emergency. **Passed with Amendment.**

HB 602-FN, relative to the use of drones. **Passed.**

HB 636-FN (Third New Title), relative to forfeiture of property; relative to the sale of premixed synthetic urine; establishing a grant program for high schools for heroin and opiate prevention education; and clarifying who may petition to adopt. **Passed with Amendments.**

HB 1144-L, relative to notice for sessions of correction of the check list. **Passed with Amendment.**

HB 1203, relative to voting on variances. **Inexpedient to Legislate.**

HB 1293, relative to the procedure for charter amendments. **Passed.**

HB 1322, relative to reports to the public employee labor relations board. **Inexpedient to Legislate.**

HB 1356, relative to construction of the terms “resident,” “inhabitant,” “residence,” and “residency.” **Tabled.**

HB 1375 (New Title), relative to deliberative sessions in political subdivisions that have adopted official ballot voting. **Passed with Amendment.**

HB 1382, relative to the referendum procedure for public water systems. **Inexpedient to Legislate.**

HB 1395, relative to municipal electronic records. **Passed with Amendment.**

HB 1428-FN-A-L (Fourth New Title), establishing the clean water state revolving fund non-program fund account in the department of environmental services for the purpose of funding eligible and completed wastewater projects under the state aid grant program, making an appropriation to the police standards and training council, repealing the police standards and training council training fund, making a capital appropriation to the police standards and training council, adding a quorum requirement to the performance audit and oversight committee, relative to liquor commission revenue shortfalls, and relative to the rivers management and protection program. **Passed with Amendments.**

HB 1455, relative to the application of the municipal budget law to village districts wholly within a town. **Inexpedient to Legislate.**

HB 1468, relative to sessions for correction of the checklist. **Passed.**

HB 1482, relative to the Interstate Voter Registration Crosscheck Program. **Passed.**

HB 1503 (Second New Title), relative to distributing campaign materials at the polling place, relative to health and dental benefits for temporary, seasonal, and part-time state employees, and relative to administration of the tobacco tax. **Passed with Amendments.**

HB 1508, allowing public libraries to run certain privacy software. **Referred to Interim Study.**

HB 1534 (New Title), relative to reports of death of voters and authorizing an electronic poll book trial program. **Passed with Amendment.**

HB 1697-FN, relative to the operation and insurance of transportation network companies. **Passed.**

HB 2016, relative to the state 10-year transportation improvement program. **Passed with Amendments.**

Upcoming Events for NHMA Members

NHMA Workshops

May and June, 2016—Local Officials Workshops—Various Locations

June 10, 2016 [2016 Avoiding the Road to Liability](#), Concord, NH at 9:00 a.m.

June 16, 2016 [Fundamentals of Local Welfare](#), Concord, NH at 9:30 a.m.

For more information please access our website: www.nhmunicipal.org and scroll down on the left to CALENDAR OF EVENTS and Click *View the Full Calendar*.

Contact us by phone at 1-800-852-3358 x3350 or email us at NHMAregistrations@nhmunicipal.org

NHMA Webinar

June 8, 2016 2016 Legislative Wrap-up

Time: 12:00—1:00 p.m.

Click [here](#) to register by noon on June 7, 2016

Join Government Affairs Counsel Cordell Johnston and Government Finance Advisor Barbara Reid for a review of the highlights of the 2016 legislative session. This will be several weeks after the legislative session ends, so except for possible vetoes, all legislative action will be final.

This webinar will discuss the most significant bills of municipal interest that made it through the legislature this year, as well as a few that failed but may be back in the future. The discussion will include, among others, state aid grants for water and wastewater facilities, assessing issues, planning and zoning, the Right-to-Know law, municipal liability, election laws, and various other changes affecting municipal governance and administration.